IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 321 OF 2005

Maharshi Vivekanand Samajk Kalyan
Sanstha, Akkalkot & others. ... Appellants.
Versus.
Dilip Makbul Shaikh & others. ... Respondents.

Shri R.S.Alange for the Appellants.

Shri I.M.Khairdi for the Respondent No.1.

CORAM : ABHAY S. OKA, J.

DATED : 26th April, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Appellants and the learned Counsel appearing for the Respondent No.1. The challenge in this Appeal from Order is to the Judgment and Order dated 7th January 2005. The operative part of the impugned order reads thus:

> "2) Defendants Nos.1 to 10 are hereby directed and ordered to pay salary of plaintiff in D.Ed. scale from the date of filing of this application month to month to the plaintiff till the decision of present suit.
>
> 3) It is hereby directed and ordered that defendants Nos.1 to 10 shall retransfer the plaintiff to Marathi Medium Classes of

defendant school from the Kannad Medium Classes and at the same time the implementation and execution of transfer order dated 8/9/2003 issued by defendants management committee is stayed till decision of the present suit."

2. The learned Counsel appearing for the parties stated that clause 3 of the impugned order has already been implemented. The learned Counsel appearing for the Appellants stated that the School in question is an aided School and therefore, the pay bill has been submitted by the Appellants to the Education Officer on 1st April 2005 for payment of salary to the Respondent No.1/Plaintiff in terms of the direction contained in clause 2 of the operative part of the impugned Judgment and Order.

3. The learned Counsel for the Appellants stated that it will take some time for the concerned Department to process the bill and make necessary payment.

4. From the submissions made before me, it is apparent that the Appellants have substantially implemented the impugned Judgment and Order. It is true that the authorities may require some time to process the pay bill submitted by the Appellants. In view of this position, the ends of justice will be met if the Appeal from Order is disposed of directing that the original

Plaintiff will not take steps for enforcing clause 2 of the operative part of the impugned Judgment and Order for a period of three months from today.

5. Hence the following order is passed:

(i) In view of the substantial compliance made by the Appellants nothing survives in the Appeal from Order and the same is disposed of. However, the Respondent No.1 is directed not to take any steps in enforcing the direction given in clause 2 of the impugned Judgment and Order for a period of three months from today.

(ii) All contentions of the parties in the pending suit are expressly kept open.

(iii) There will be no order as to costs.

(iv) Parties to act on authenticated copy of the order.

Judge.